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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
1998 Biennial Regulatory Review --) WT Docket No. 98-205
Spectrum Aggregation Limits)
for Wireless Telecommunications Carriers)

To: The Commission

REPLY COMMENTS OF NEXTEL COMMUNICATIONS, INC.

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SUMMARY

Nextel Communications, Inc. ("Nextel") respectfully submits this response to the proposal of Southern Communications, Inc. ("Southern") to promote disparate regulations among providers of Commercial Mobile Radio Services ("CMRS"). Southern's self-serving proposal would promote regulatorily-mandated capacity limitations on a subset of CMRS competitors, thereby reversing the regulatory parity progress the Commission has made to date, and exacerbating the regulatory disparity that Congress intended to eliminate six years ago. Disparate rules, such as Southern's service-specific 15 MHz cap, would distort the marketplace and impair the overall competitiveness of the CMRS marketplace.

The Commission has labored for six years to create regulatory parity among interconnected Specialized Mobile Radio ("SMR") services, cellular and Personal Communications Services ("PCS"). The United States Court of Appeals for the D.C. Circuit ("DC Circuit") recently upheld the Commission's new SMR licensing and auction rules, which promote regulatory parity among CMRS carriers by providing, to the extent possible, contiguous spectrum for SMR providers competing with cellular and PCS services. In response to regulatory parity arguments presented by Southern, however, the DC Circuit found that the Commission had not achieved such parity for all interconnected SMRs because it failed to provide cellular and PCS-like buildout standards for incumbent wide-area SMRs that did not obtain Economic Area licenses at auction.

Now, Southern -- the very provider promoting the Commission's regulatory parity obligations before the DC Circuit -- is promoting a service-specific spectrum cap that would reverse the Commission's regulatory parity progress and impose new regulatory burdens on SMRs that are not imposed on their CMRS competitors. This result is contrary to Congress' goals in creating the CMRS category of mobile services and would not serve the public interest. The Commission should dismiss Southern's proposal and ensure that all CMRS providers are competing on a level playing field with comparable access to spectrum.

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I. INTRODUCTION

Nextel Communications, Inc. ("Nextel") respectfully submits these Reply Comments in the above-captioned proceeding, wherein the Federal Communications Commission ("Commission") sought comments on whether to "repeal, modify, or retain the [45 MHz Commercial Mobile Radio Service ("CMRS")] spectrum cap."^{1/}

Nextel responds solely to the Comments of Southern Communications, Inc. ("Southern"), which, without ever addressing the issues raised in the Commission's Notice, seeks to impose a new spectrum cap on one subset of Commercial Mobile Radio Services ("CMRS") competitors. Southern urges the Commission to adopt a 15 MHz service-specific spectrum cap on Specialized Mobile Radio ("SMR") providers despite the fact that their competitors, cellular and Personal Communications Services ("PCS") providers, operate on up to 30 MHz of clear contiguous spectrum in each geographic area. At a time when the Commission and the wireless industry are

^{1/} Notice Of Proposed Rulemaking, WT Docket No. 98-205, FCC 98-308, released December 10, 1998 ("Spectrum Cap Notice") at para. 7.

considering forward-looking, marketplace-driven solutions to enhancing competition, Southern stands alone in its attempt to increase regulatory restrictions on competitive providers of mobile telecommunications services.

Despite being one of the Nation's largest utility holding companies, Southern is attempting to ensure the success of its commercial SMR business through regulatory fiat -- rather than by offering customers a better service at a better prices in the marketplace. Southern has had opportunities to expand its CMRS system within and beyond the Southeastern United States, whether via auctions or acquisitions. The fact that it made a strategic business decision not to invest in such expansion is no justification for artificially restricting spectrum aggregation by other CMRS competitors. As the Commission has already stated, "the marketplace, not our rules, should determine whether [800 MHz channels] will be used on an aggregated or disaggregated basis."2/

The Commission previously recognized that "limiting the aggregation of 800 MHz spectrum could handicap . . . potential competitors to broadband PCS and cellular providers with equal or larger spectrum holdings."3/ As SBC Wireless stated in arguing

2/ Second Report and Order, 12 FCC Rcd 19079 (1997) ("Second R&O") at para. 25.

3/ In Re Applications of Pittencrieff Communications, Inc. and Nextel Communications, Inc., 13 FCC Rcd 8935 (1997) (hereinafter "*PCI*") at para. 71, citing First Report and Order, Eighth Report and Order and Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 1463 (1995) ("First R&O and Eighth R&O").

for access to more than 45 MHz of CMRS spectrum, "the ability to compete as newer services emerge demanding more bandwidth will become increasingly difficult."^{4/} It is ironic that, at the same time a number of Nextel's CMRS competitors are asserting that 45 MHz of clear, contiguous spectrum is not sufficient to support their expanding operations, Southern is trying to restrict Nextel and other commercial 800 MHz operators to far less spectrum.

In contrast to Southern's desire to hamstring competitors by limiting spectrum access, the Commission currently is considering a request by Nextel to recognize that SMR operators are permitted to use Business and Industrial/Land Transportation ("B/ILT") channels in their commercial SMR systems.^{5/} Granting Nextel's request to access these channels would, in fact, put it on a level playing field with Southern, which has repeatedly converted thousands of B/ILT channels to commercial use during the past three

^{4/} Comments of SBC Wireless at p. 10; *see also* Comments of AT&T Wireless Services, Inc. ("AT&T Wireless"), GTE, Bell Atlantic Mobile, Inc. ("Bell Atlantic"), Western Wireless Corporation ("Western"), and Airtouch Communications, Inc. ("Airtouch").

^{5/} Prior to 1995, the Commission's intercategory sharing rules allowed commercial operators to license B/ILT channels for their commercial operations if there were no SMR channels available. 47 C.F.R. Section 90.621(e). In 1995, the Commission froze intercategory sharing and later amended its rules to prohibit the initial licensing of B/ILT channels for commercial use. *See* Order, 10 FCC Rcd 7350 (1995); *affirmed* Order, 11 FCC Rcd 1452 (1995); *see also* First R&O and Eighth R&O, *supra*. at fn. 3. Nextel's waiver requests seek the authority to convert previously-licensed B/ILT channels to commercial use via transfers of control and/or assignments consistent with the Commission's existing rules and its previous actions.

years.^{6/} Interestingly, Southern's 15 MHz service-specific SMR spectrum cap would not apply to the B/ILT channels which make up the "vast majority" of its own SMR system. Rather, the cap would be limited to those providers, such as Nextel, that rely primarily on SMR assignments.

Certainly, if 45 MHz of clear, contiguous cellular and/or PCS spectrum is not sufficient to meet the demands of the marketplace, 15 MHz of non-contiguous, encumbered spectrum would significantly handicap SMRs competing or potentially competing for CMRS customers.^{7/} The Commission already recognized that this fragmented SMR spectrum is "not currently equivalent to cellular or broadband PCS spectrum."^{8/} Because the channels are encumbered, non-contiguous and assigned on a site-by-site basis, an SMR licensee faces more significant obstacles than its competitors in configuring a wide-area system.^{9/} For this reason, the

^{6/} See Comments of Nextel, filed November 25, 1998 in DA 98-2206.

^{7/} Just last week, the United States Court of Appeals for the D.C. Circuit, in its decision upholding the Commission's 800 MHz SMR auction rules, found that SMRs are competing with other CMRS providers. See Fresno Mobile Radio et al. v. FCC, No. 97-1459, decided February 5, 1999 at p. 3.

^{8/} Third Report and Order, GN Docket No. 93-252, 9 FCC Rcd 7988 (1994) ("Third R&O") at para. 275.

^{9/} See Comments of GTE at p. 14, citing the Declaration of J. Gregory Sidak and David J. Teece, economists specializing in telecommunications ("Nextel has become an effective competitor in the CMRS industry by operating on an 'average of 14 MHz in each region which, for technological reasons, is roughly equivalent to a 10 MHz PCS block of spectrum.'")

Commission concluded that no SMR licensee would be attributed more than 10 MHz of SMR spectrum.^{10/}

Southern's proposal fails to even address this finding, much less provide any reasoned basis for an SMR service-specific cap. In fact, nothing has changed that would support elimination of the 10 MHz attribution rule -- SMR spectrum has yet to be assigned on a geographic-area basis,^{11/} and it continues to be significantly encumbered.^{12/} Southern's proposal would restrict the ultimate competitiveness of one subset of CMRS competitors -- those operating on 800 MHz SMR channels -- by placing on them a finite capacity limit well below that of their competitors, thereby decreasing, rather than enhancing, CMRS competition. For this reason, the Commission should reject Southern's proposal.

II. BACKGROUND

A. Nextel's Digital iDEN Telecommunications System

Nextel is the Nation's largest provider of wide-area SMR services. Employing Motorola's iDEN technology, Nextel provides its users state-of-the art digital cellular service, push-to-talk digital dispatch service and short messaging all in a single

^{10/} Third R&O at para. 275.

^{11/} Although the Commission has completed the auction of the upper 200 SMR channels, it has yet to establish even a date for auctioning the lower 230 SMR and General Category channels.

^{12/} Winners of upper 200-channel Economic Area ("EA") licenses are entitled to move incumbents to comparable lower channels pursuant to a relocation process established by the Commission. In December 1998, the Commission initiated this process, which will take two or more years to complete. Thus, it is premature to consider 800 MHz SMR spectrum equivalent to cellular or PCS spectrum.

handset.^{13/} Additionally, Nextel offers other enhanced features readily available from its competitors such as voice mail and call forwarding. Nextel's marketing, therefore, primarily focuses on the mobile telecommunications user attracted to the combination cellular/dispatch service and other integrated features.

Nextel's iDEN service competes directly with the products and services being offered by cellular and PCS providers. While Nextel has experienced phenomenal growth in only a few short years, growing from a few hundred thousand to over 2.7 million mobile units, it is a relatively small competitor vis-a-vis the established incumbent CMRS operators. In 1997, for example, Nextel's sales represented only 2.16% of the wireless industry's overall total revenue.^{14/} This hardly represents the type of "monopoly" market share that Southern would attribute to Nextel.

^{13/} Motorola's iDEN technology is available in two versions: 6:1 and 3:1. Although 6:1 was the first version introduced to the public, customer preferences for enhanced voice quality on the interconnected telephone/cellular service resulted in Motorola's upgrading iDEN to the 3:1 digital platform, thereby improving the voice quality on its interconnected service. See, e.g., In Re Applications of Pittencrieff Communications, Inc. and Nextel Communications, Inc., 13 FCC Rcd 8935 (1997) (hereinafter "PCI") at para. 65, citing Donaldson, Lufkin & Jenrette, The Wireless Communications Industry (Spring 1997) at 41. To the best of Nextel's knowledge, Southern continues to employ the 6:1 version, despite the availability of 3:1 iDEN technology, thereby providing state-of-the-art digital dispatch service but -- arguably -- a lesser quality cellular telephone service. This, perhaps, explains Southern's interest in focusing on regulatory restrictions rather than marketplace competition.

^{14/} Comments of Bell Atlantic, Declaration of Dr. Charles L. Jackson ("Attachment") at p. 11.

B. Regulatory Background

In 1993, Congress passed the Omnibus Budget Reconciliation Act ("1993 Budget Act"), creating the CMRS regulatory classification and mandating that all CMRS carriers be subject to comparable regulation. This Congressional "regulatory parity" mandate was necessary "to establish a consistent regulatory framework for all commercial mobile radio services," and was "an essential step toward achieving the overarching Congressional goal of promoting opportunities for economic forces -- not regulation -- to shape the development of the CMRS market."^{15/}

After concluding that all cellular, PCS and interconnected SMRs provided "substantially similar" services because they fulfill the same consumer need to communicate "on the move,"^{16/} the Commission established geographic-area licensing for SMRs to ensure that they too would have access to the spectrum necessary to compete in the CMRS marketplace.^{17/} While cellular providers are operating on 25 MHz of clear, contiguous spectrum and PCS providers are operating on up to 30 MHz of clear, contiguous spectrum, SMR providers theoretically have access to, at most, 21.5 MHz of spectrum, including the upper and lower 800 MHz SMR channels and the General Category channels, which are not contiguous and are

^{15/} Third R&O, *supra*. at fn. 8, at para. 29.

^{16/} *Id.* at paras. 43, 58.

^{17/} See, e.g., First R&O and Eighth R&O at para. 9.

heavily encumbered.^{18/} Nextel has implemented its nationwide system by consolidating, to the extent possible, 800 MHz spectrum via acquisitions and Commission auctions.

The Commission has recognized the public interest benefits of 800 MHz spectrum consolidation, concluding that it facilitates increased competition with cellular and PCS providers.^{19/} Moreover, in response to previous requests to place a cap on consolidating spectrum via the SMR auctions, the Commission refused, recognizing that even the aggregation of every auctioned license "would fall well short of the 45 MHz spectrum cap, and would [still be] less spectrum than PCS and cellular providers in the same market."^{20/}

III. DISCUSSION

A. CMRS Is the Appropriate Product Market for Analyzing a Spectrum Cap on SMR Providers

Southern's argument for a service-specific spectrum cap relies solely on its own mischaracterization of the Commission's decision in *Pittencrieff* (hereinafter "*PCI*"), approving Nextel's acquisition of Pittencrieff Communications, Inc.'s 800 MHz SMR licenses.^{21/} Southern portrays the decision as a significant shift in Commission

^{18/} See Second R&O, *supra*. at fn. 2, at para. 25, fn. 60. Additionally, should the Commission permit SMR access to B/ILT channels for commercial operations, these licensees would have access to only 26.5 MHz of non-contiguous, encumbered spectrum, still below that of their competitors when accounting for its fragmented nature.

^{19/} See *PCI*, *supra*. at fn. 2, at para. 69.

^{20/} Second R&O at para. 25.

^{21/} See fn. 2, *supra*.

policy -- away from CMRS as the relevant product market to a narrower SMR product market. However, Southern's argument ignores the Commission's finding therein that "[i]n many policy contexts [the CMRS product market analysis] has been appropriate, and continues to be, as mobile carriers operating on different frequencies expand their offerings to serve a wide range of consumer needs."22/ In the context of reviewing a spectrum cap on SMR providers competing in the CMRS marketplace, and whether it is narrowly tailored to foster competition in all telecommunications markets,23/ the CMRS product market continues to be the appropriate framework.

Restricting the product market to Southern's narrow view ignores the realities of the telecommunications marketplace and the pro-competitive benefits SMR providers have brought to the CMRS industry. For example, Nextel's entrepreneurial beginnings have matured into what one analyst has described as a "maverick" firm that has lead the way in competitive marketplace innovations, e.g., no roaming charges and one-second rounding.24/ Nextel pioneered these competitive marketing tactics, and its competitors, including "established providers" such as AT&T Wireless, Bell Atlantic and Airtouch, have followed with similar national and/or single-rate plans.25/ At the same time, Nextel has been an industry leader

22/ PCI at para. 21 (emphasis added).

23/ See Spectrum Cap Notice at para. 5.

24/ Comments of Bell Atlantic, Attachment at p. 15.

25/ Id.

by constructing more than 6,500 digital sites nationwide, increasing subscribership exponentially, and extending its digital network into 91 of the top 100 markets. As the comments submitted herein confirm, Nextel is an integral part of the CMRS marketplace and is providing a competitive alternative to cellular and PCS providers.^{26/}

In *PCI*, the Commission found that, "although the merger will result in increased concentration of spectrum within the SMR bands[,] . . . there are no regulatory barriers preventing potential dispatch service providers from offering services using other bands."^{27/} As the Cellular Telecommunications Industry Association ("CTIA") stated in its Comments, market share *per se* is not an indicator of market power because, as long as anyone else can enter the market and sell and distribute the same or similar products, there is no market power.^{28/} In reviewing Nextel's acquisition of *PCI*'s 800 MHz SMR licenses, the Commission found no anti-competitive effects in the dispatch market, whether in urban

^{26/} See, e.g., Comments of GTE at p. 7; Bell Atlantic, Attachment at p. 8; Western at p. 6; Airtouch at p. 11.

^{27/} See *PCI* at para. 62; see also *PCI* at paras. 60-63 discussing the competitive effects of the merger on the dispatch market and paras. 49-54 wherein the Commission analyzes the pre-merger state of the dispatch market. Contradicting Southern's reading of *PCI*, the Commission expressly found that the "merger is **unlikely** to result in Nextel being able to exercise any unilateral market power as a result of the merger." *PCI* at para. 59 (emphasis added).

^{28/} Comments of CTIA at p. 16, fn 49, citing Washington Post article.

or rural areas, because there are existing and potential alternative providers of dispatch services.^{29/}

The dispatch market analyzed by the Commission in *PCI*, moreover, included "all trunked dispatch services, whether provided by CMRS operators or [Private Mobile Radio Service] companies on a commercial (for-profit) basis, and whether provided over analog or digital systems."^{30/} Contrary to Southern's attempt to further narrow the product market to its particular telecommunications service specialty, digital dispatch communications at 800 MHz,^{31/} the Commission expressly found that the market includes both analog and digital services provided by licensees at 800 MHz, 900 MHz and 220 MHz, as well as providers using VHF and UHF frequencies at 150 MHz and 450 MHz, respectively.^{32/} Southern's comments are an attempt to construe the product market so that it includes nothing more than its own particular service, thereby ensuring its preservation without regard to marketplace realities and consumer needs.

^{29/} *PCI* at paras. 60-63. Southern could, perhaps, be relying on the Commission's statement in the Introduction of *PCI* that the merger "has some potential to affect consumers of dispatch and mobile interconnected phone services in this region by reducing competition." *PCI* at para. 2. This statement, however, hardly rises to the level of a finding of "market power," is later put to rest by the Commission's analysis of the markets, and certainly does not justify Southern's proposed regulatory restrictions.

^{30/} *PCI* at para. 35.

^{31/} Comments of Southern at p. 5.

^{32/} *Id.* at para. 30, fn. 63.

The Commission is under an obligation to promote regulatory parity among CMRS carriers, to the extent possible.^{33/} Certainly, establishing an arbitrary 15 MHz spectrum cap -- well below the spectrum access provided other CMRS competitors -- would not fulfill the Commission's regulatory parity mandate. On the contrary, the proposed service-specific cap would place this subset of CMRS competitors at a significant regulatorily-created competitive disadvantage by restricting them to a limited amount of spectrum and, thereby, a limited amount of system capacity.

In promoting regulatory parity, the Commission has imposed significant regulations on Nextel and other interconnected SMRs, including the obligation to provide Enhanced 911 services and access for the speech and hearing impaired, to comply with the Communications Assistance for Law Enforcement Act, and to contribute to the Federal Universal Service Fund, among others. Arbitrarily restricting SMR spectrum access, particularly in combination with the above obligations which, in many cases, consume spectrum capacity, would reverse the Commission's steps toward regulatory parity.

^{33/} See, e.g., Third R&O at para. 80, citing Section 6002(d)(3) of the 1993 Budget Act.

B. Aggregation of SMR Spectrum is in the Public Interest

Contrary to Southern's assertion that *PCI* supports placing a limit on SMR spectrum aggregation, *PCI*, in fact, delineates myriad public interest benefits of consolidating such spectrum.^{34/}

Increased Spectrum Efficiency. First, the Commission found in *PCI* that aggregating SMR spectrum would promote the introduction of digital technology, which constitutes "a clear public interest benefit" by increasing spectrum efficiencies.^{35/} Actually reassembling this disaggregated SMR spectrum would "increase[] the ability to reallocate [it] efficiently in response to market incentives."^{36/} Nextel's introduction of digital telecommunications services evidences the reality of the Commission's predictions in *PCI*, providing more efficient dispatch and cellular telephone services to the public. In fact, Nextel's 2.7 million digital mobile units represent more SMR users than the entire SMR industry served during the last twenty years.

Introduction of Digital Technologies. Second, *PCI* found that the aggregation of 800 MHz SMR spectrum, allowing the deployment of digital technologies, results in the introduction of a "wider range

^{34/} Interestingly, at the same time that Southern seeks to limit 800 MHz SMR aggregation to 15 MHz, Southern readily acknowledges that "digital dispatch can only be provided at a reasonable cost if it is provided with other services, such as short messaging, telephony, and data services." Comments of Southern at p. 5. The ability to expand service offerings to encompass various services requires bandwidth; not spectrum limitations.

^{35/} *PCI* at para. 65.

^{36/} *Id.* at para. 66.

of features, better security, and improved transmission quality relative to existing cellular products."37/ Specifically, the Commission recognized that adding spectrum capacity "will enable Nextel to realize cost economies in its multi-cellular architecture."38/

Competition With Cellular and PCS. Finally, *PCI* concluded that 800 MHz SMR spectrum aggregation provides increased competition with cellular and PCS services.39/ The ability to aggregate this spectrum makes it possible for SMRs to provide competition not only to the "local cellular telephone carriers," as Southern described it,40/ but also to local, regional and national cellular and PCS providers. A review of the comments in this proceeding, as well as a study of wireless telecommunications analysts' reports, leaves no doubt that Nextel is becoming a significant competitor to cellular and PCS providers.41/

As noted earlier, Nextel pioneered some of the CMRS industry's more competitive marketing strategies to date -- one-second rounding and no roaming charges, as well as the concept of a ubiquitous nationwide digital system. Additionally, as Bellsouth stated in its Comments herein, the ability to aggregate spectrum will allow carriers "to take full advantage of technical

37/ *Id.* at para. 67.

38/ *Id.* at para. 68.

39/ *Id.* at para. 69.

40/ Comments of Southern at p. 4.

41/ See fn. 26, *supra*.

innovations, consumer demand, and spectrum efficiencies, enabling them to better compete with [local exchange carriers] and narrowband-type service, resulting in greater overall telecommunications competition."^{42/} On February 8, 1999, for example, Nextel announced that it has teamed with Motorola, Netscape and Unwired Planet to offer wireless Internet service on its nationwide iDEN network.^{43/} Limiting Nextel or any other licensee to 15 MHz of 800 MHz SMR spectrum would be an arbitrary restriction on their ability to compete against CMRS carriers with up to 30 MHz of clear contiguous spectrum, and it would restrict their ability to introduce innovative new products and services such as the recent-announced "Nextel Online"sm family of wireless Internet services.

C. Spectrum Caps Are Intended To Protect Competition, Not Competitors

Spectrum caps are not intended to protect competitors or to ensure the preservation of a particular type of service on specific spectrum bands.^{44/} Spectrum caps are intended to "discourage

^{42/} Comments of Bellsouth, summary at p. 1.

^{43/} Nextel News Release, "Nextel Teams With Motorola, Netscape and Unwired Planet to Offer Wireless Internet Services on Its Guaranteed All-Digital National Network," released February 8, 1999.

^{44/} SMR channels can be used to provide a variety of state-of-the-art telecommunications services. In addition to the integrated services provided on Nextel's system, including the recent addition of wireless Internet services, Bellsouth noted in its Comments that it currently uses SMR spectrum to provide "highly innovative two-way paging service that includes e-mail, voice-mail, and a host of other services. . . ." Comments of Bellsouth at p. 9.

anti-competitive behavior, while at the same time maintaining incentives for innovation and efficiency."45/ Nextel is a pioneer of pro-consumer, pro-competitive practices in the CMRS marketplace, and its presence in the mobile telecommunications industry has helped to accelerate competition and the introduction of new, innovative products and services.

Southern baldly states that "Nextel generally offers digital dispatch service at *well over \$60 per month in regions where it faces no competition.*"46/ First, Nextel has **no** rate plans in which it offers only digital dispatch services for "well over \$60 per month." Certainly, Nextel has numerous rate plans at "well over \$60 per month," but they include hundreds, and sometimes thousands, of cellular minutes in addition to the digital dispatch service. Nextel prices its services according to the competitive forces of cellular and PCS products and services, as well as the integrated services it offers consumers. In the Southeastern United States, for example, Nextel faces competition not only from Southern, but also from numerous providers of analog dispatch services, cellular services and PCS services. Thus, Nextel must price its integrated services packages, *i.e.*, those offering a combination of cellular and dispatch minutes per month, as well as voice mail, short messaging and other enhanced services, at competitive levels vis-a-vis cellular providers and PCS operators, as well as other dispatch service providers.

45/ Third R&O at para. 251.

46/ Comments of Southern at p. 6 (emphasis added).

III. CONCLUSION

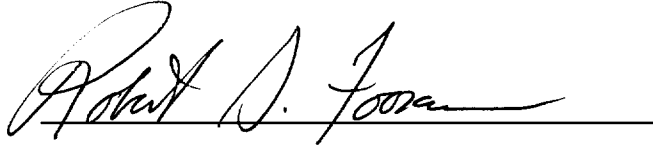
Southern's self-serving proposal offers no public interest justification for limiting SMR operators to no more than 15 MHz of encumbered, non-contiguous spectrum. The proposed spectrum restriction is an attempt to pigeonhole users of 800 MHz SMR spectrum into a limited set of telecommunications services rather than permitting them to continue introducing competitive alternatives in the CMRS marketplace -- whether advances in voice services or data and Internet services. Southern's business decision to concentrate its efforts on digital dispatch services (with, arguably, a limited interconnected cellular phone service) is no justification for handicapping other 800 MHz SMR providers. The Commission, as it has stated, cannot overlook the overall economic impact of such decisions for the purpose of preserving a singular telecommunications service.

Additionally, Southern's proposal to prohibit the aggregation of 800 MHz spectrum would restrict competition in the purchase and sale of 800 MHz spectrum, thereby decreasing its value to the public. Limiting the uses of such spectrum by restricting its acquisition, limits its usefulness and, thereby, its ultimate value. Decreasing the spectrum's value to CMRS competitors and decreasing competition in the wireless telecommunications marketplace by restricting one subset of CMRS competitors will enhance Southern's position as a provider of primarily digital dispatch services; however, there is no benefit to consumers.

The Commission has concluded that the 45 MHz CMRS cap strikes the appropriate balance between efficiency and competition. Imposing Southern's proposed 15 MHz cap on one subset of CMRS competitors would exacerbate the regulatory disparity that Congress intended to eliminate four years ago. Disparate rules, such as Southern's proposal, would distort the marketplace and impair overall CMRS competition. The public interest would not be served by Southern's proposed service-specific cap.

For these reasons, the Commission should deny Southern's proposal.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Robert S. Foosaner", is written over a horizontal line.

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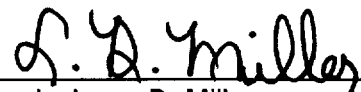
CERTIFICATE OF SERVICE

I, Ladonya D. Miller, hereby certify that on this 10th day of February, 1998, caused a copy of the attached Reply Comments of Nextel Communications, Inc. to be served by hand delivery to the following:

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